

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF USA FOR
2703(d) ORDER FOR EIGHT UNIFORM
RESOURCE LOCATORS SERVICED BY
GOOGLE FOR INVESTIGATION OF
VIOLATION OF 18 U.S.C. § 1505

SC No. 19-1208

Reference: USAO Ref. # 2019R00170; Subject Accounts: See Attachment A

**APPLICATION OF THE UNITED STATES
FOR AN ORDER PURSUANT TO 18 U.S.C. § 2703(d)**

The United States of America, moving by and through its undersigned counsel, respectfully submits under seal this *ex parte* application for an Order pursuant to 18 U.S.C. § 2703(d). The proposed Order would require Google LLC (“Google”), an electronic communication service and/or remote computing service provider located in Mountain View, California, to disclose certain records and other information pertaining to the Google accounts associated with various Uniform Resource Locators (“URLs”) (i.e., web pages) affiliated with YouTube.com, as set forth in Part I of Attachment A to the proposed Order, within ten days of receipt of the Order. The records and other information to be disclosed are described in Part II of Attachment A to the proposed Order. In support of this application, the United States asserts:

LEGAL BACKGROUND AND JURISDICTION

1. Google is a provider of an electronic communication service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Accordingly, the United States may use a court order issued under § 2703(d) to require Google to disclose the items described in Part II of Attachment A. *See* 18 U.S.C. § 2703(c)(2) (Part II.A of Attachment A); 18 U.S.C. § 2703(c)(1) (Part II.B of Attachment A).

2. This Court has jurisdiction to issue the requested Order because it is “a court of

competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(d). Specifically, the Court is a “district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). As discussed more fully below, acts or omissions in furtherance of the offenses under investigation occurred within Washington, DC. *See* 18 U.S.C. § 3237.

3. A court order under section 2703(d) “shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that . . . the records or other information sought . . . are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d). Accordingly, the next section of this application sets forth specific and articulable facts showing that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation.

RELEVANT FACTS

4. As discussed more fully below, defendant Roger Stone was indicted by a grand jury in the District of Columbia on January 24, 2019, for Obstruction of Proceedings, False Statements, and Witness Tampering, in violation of 18 U.S.C. §§ 1001(a)(2), 1505, and 1512(b)(1). His matter is currently pending and captioned, *United States v. Roger J. Stone, Jr.*, 19-cr-00018 (ABJ). The indictment alleges, *inter alia*, that Stone testified falsely before the House Permanent Select Committee on Intelligence on September 27, 2017 and tampered with a witness whose testimony was sought by that committee.

5. One of the allegations in the indictment is that Stone, in or around early August 2016, claimed both publicly and privately to have communicated with Organization 1, which released tens of thousands of documents stolen from the Democratic National Committee and the

personal email account of the chairman of the U.S. presidential campaign of Hillary Clinton. *See* Indictment, Doc. No. 1, ¶¶ 3, 6.

6. Some of the public statements made by Stone in early August 2016 were videotaped and published on YouTube.com. To establish the dates by which Stone made those public statements, the Government wishes to obtain from Google the actual upload date for those videos (while YouTube posts a “published on” date for videos, the Government seeks certified business records establishing the upload dates). Specifically, the Government seeks to obtain from Google the upload dates for the following videos during the early August 2016 timeframe:

- a. August 4, 2016 video of Roger Stone on InfoWars, available at https://www.youtube.com/watch?v=MQM1_tDk2h8&t=1929s
- b. August 8, 2016 video of Roger Stone making public remarks in Broward County, Florida, available at https://www.youtube.com/watch?v=r6-qW_PzGEA and https://www.youtube.com/watch?v=6gM_cyROnto
- c. August 12, 2016 video of Roger Stone on InfoWars, available at <https://www.youtube.com/watch?v=OPkRMIEv3-I>
- d. August 16, 2016 video of Roger Stone on InfoWars, available at <https://www.youtube.com/watch?v=HXXwf-9otzU>
- e. August 16, 2016 video of Roger Stone on the Dana Loesch show, available at <https://www.youtube.com/watch?v=HfrzKmeXsrI>

7. In addition, the Government seeks the upload date for a videotaped statement that the head of Organization 1 made on or about June 12, 2016, claiming that Organization 1 has “emails relating to Hillary Clinton which are pending publication.” That video is available at <https://www.youtube.com/watch?v=x7uvbETwpwU>. The Government is seeking this

information, *inter alia*, to establish when Organization 1 made public statements regarding its possession of emails relating to Hillary Clinton, which is relevant to proving the timeline of events charged in the indictment.

8. On or about June 4, 2016, an attorney for the Government spoke with Google, who stated that it would provide the requested upload dates only upon receiving an Order from the Court pursuant to 18 U.S.C. § 2703(d). Because this matter is currently public, the Government is not seeking to seal this request nor is the Government seeking to prevent the disclosure of this request to those individuals who uploaded the subject videos.

REQUEST FOR ORDER

9. The facts set forth above show that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation. Accordingly, the United States requests that Google be directed to produce all items described in Part II of Attachment A to the proposed Order within ten days of receipt of the Order.

Respectfully submitted,

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ORDER

The United States has submitted an Application pursuant to 18 U.S.C. § 2703(d), requesting that the Court issue an Order requiring Google LLC (“PROVIDER”), an electronic communication and/or remote computing service provider located in Mountain View, California, to disclose the records and other information described in Attachment A to this Order. The Court finds that the United States has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2703(d), that PROVIDER shall, within ten days of receipt of this Order, disclose to the United States the records and other information described in Attachment A to this Order.

Date:

HON. ROBIN M. MERIWEATHER
UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

Provide the upload date and time (i.e., the date and time the videos were uploaded or “published” to YouTube.com) for each of the following videos:

- 1.) <https://www.youtube.com/watch?v=x7uvbETwpwU>
- 2.) <https://youtu.be/x7UvbETwpwU>
- 3.) https://www.youtube.com/watch?v=MQM1_tDk2h8&t=1929s
- 4.) https://www.youtube.com/watch?v=r6-qW_PzGEA
- 5.) https://www.youtube.com/watch?v=6gM_cyROnto
- 6.) <https://www.youtube.com/watch?v=OPkRMIEv3-I>
- 7.) <https://www.youtube.com/watch?v=HXXwf-9otzU>
- 8.) <https://www.youtube.com/watch?v=HfrzKmeXsrI>